



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/400,034	09/21/1999	RALPH K. ITO	OLYMPUS-13	2992

7590

10/09/2002

STRAUB &amp; POKOTYLO

1 Bethany Road  
Suite 56 Building 4  
Hazlet, NJ 07730

EXAMINER

SAVAGE, MATTHEW O

ART UNIT

PAPER NUMBER

1723

13

DATE MAILED: 10/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/400,034

Applicant(s)

ITO, RALPH K.

Examiner

Matthew O Savage

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 28-52 is/are pending in the application.
- 4a) Of the above claim(s) 11-13 and 28-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 1723

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ruediger et al.

With respect to claim 1, Ruediger et al disclose a first part including a pipette tip 54 (see FIG. 8) having an open tip end, a sample cup 56 fluidly coupled with the pipette tip and having an open end, and a second part including a channel (e.g., defined by parts 40, 79, and 82) for receiving the pipette tip of the first part, a support (e.g., defined by part 39) for accommodating at least a portion of the sample cup, and a constricted passage (e.g., defined by parts 44, 66, and 68) arranged between the channel and support and being capable of collapsing the pipette tip as the first part is inserted into the second part (see FIG. 8).

Art Unit: 1723

Concerning claims 2-3, Ruediger et al disclose the pipette as being formed of a flexible and collapsible material (see FIG. 8).

Regarding claim 4, Ruediger et al discloses an arrangement capable as functioning as recited in the claim (see FIG. 8).

As to claim 5, Ruediger et al disclose the length of the channel as being at least as long as a length of the pipette tip (see FIG. 13).

Concerning claim 6, Ruediger et al disclose the sample cup 56 as being dimensioned to mate with a suitable automated pipette system (e.g., one having exterior diameter equal that of the inside diameter of the cup).

Regarding claim 7, Ruediger et al disclose a support 39, 44 shaped to match a bottom of the sample cup.

Concerning claim 8, Ruediger et al disclose the support 39, 44 of the second part as being shaped to guide the pipette tip of the first part to the constricted passage as the first part is inserted into the second part.

As to claim 9, Ruediger et al disclose the support 44 as being shaped as a funnel.

Regarding claim 10, Ruediger et al disclose the support as being tapered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

Art Unit: 1723

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

*M. Savage*  
Matthew O Savage  
Primary Examiner  
Art Unit 1723

mos  
October 8, 2002